

Information for Residents of Federally Assisted Housing Financed by the Rural Housing Service

Your housing is kept affordable through an agreement between the owner of your apartment building and the United States Department of Agriculture through its **Rural Housing Service** (RHS), formerly known as the Farmers Home Administration.

The owner financed the project with a loan from RHS. In return for this financing and other subsidies, the landlord agreed to rent this housing to low income tenants and to comply with federal regulations in setting rents and managing the apartment complex. These regulations are called low income use restrictions.

Under some circumstances an owner may attempt to prepay the RHS loan and eliminate these requirements.

This handout explains your rights, responsibilities and options if your landlord decides to prepay the RHS loan and terminate the low- income use restrictions that currently govern the management of your housing. It also provides the names, addresses, and telephone numbers of various organizations that might be able to help you or answer your questions.

What is happening to housing financed by the Rural Housing Service?

In some circumstances, owners of RHS financed housing are attempting to prepay their loans. If the owner prepays the loan then the owner may obtain additional financial incentives from the federal government or convert the apartments to market rate housing free from any low income use restrictions. This is called prepayment.

If the owner prepays the RHS loan, then the owner may be able operate the housing without any requirements to rent to low income people, to keep these rents low, or to keep the other provisions typically found in an RHS rental agreement.

Not all owners with loans from RHS have a right to prepay these loans. Those who do have this right can only do so after they obtain approval from the federal agency. The process is explained below.

What happens when an owner wants to prepay the RHS loan?

An owner who wants to prepay the RHS loan must submit a request to prepay to RHS at least 180 days (six months) before the date the owner plans to prepay the loan. RHS will notify all of the project's current tenants and other interested agencies and organizations when this happens.

After getting a request to prepay, RHS will take the following steps:

1. RHS will evaluate the request and the owner's right and ability to prepay. If RHS determines that the owner does not have the right or is not able to prepay, it will reject the prepayment request at that point.
2. If RHS determines that the owner has the right and ability to prepay, RHS must offer the owner a package of financial incentives to discourage prepayment and keep the owner in the program an additional 20 years. The level of incentives will depend on the need for the housing and the financial return the owner would otherwise earn by changing the apartments to market rate housing.
3. The owner can reject these incentives. If the owner rejects the incentives then RHS will usually require that the owner advertise the project for sale to qualified nonprofit organizations and/or public agencies that have expressed an interest in purchasing RHS financed housing to keep it affordable. If the apartments are sold to a qualified purchaser, they will be permanently preserved as low income housing.
4. If no offer from an eligible nonprofit or public agency is received within 180 days, then the owner may prepay without restriction.

Does an owner always have to try to sell the apartments before prepaying the RHS loan?

There are limited circumstances when RHS may allow an owner to prepay the loan without offering the project for sale under agency regulations. However, RHS cannot do this unless steps are taken to ensure that the housing opportunities of minorities are not affected and the current tenants will not be involuntarily displaced, unless the housing is not needed.

What happens when the RHS loan is prepaid?

Prepayments of RHS loans are now rarely approved. If an owner is given approval to prepay the loan, the owner may have the right to raise the rents and operate the apartment complex without any restrictions on whom the owner rents to, what rents the owner charges, or how the owner manages the project.

Tenants *DO NOT* receive vouchers or a tenant based rent subsidy as a result of an RHS loan repayment. You may, however, have priority on waiting lists for other RHS financed housing. In some limited situations, an owner may agree to additional low-income use restrictions in order to prepay the RHS loan without offering to sell the project. If this occurs, RHS and the owner will notify you of these use restrictions.

What if the landlord also has a Section 8 project-based contract with HUD?

In some cases, an owner of an RHS financed apartment complex may also have entered into a Section 8 contract with the United States Department of Housing and Urban Development (HUD). Under this contract, the owner agrees to rent to people with low incomes.

The residents pay no more than 30% of their monthly adjusted income for rent. HUD pays the difference between the resident's share of the rent and the total rent for the apartment.

If your landlord has a Section 8 contract, the owner can – but may not be required to – continue to participate in the Section 8 program after prepaying the RHS loan. When the Section 8 contract expires, the owner can choose whether or not to renew the contract.

What are the factors that determine whether or not the owner will renew the Section 8 contract?

One year contract renewals

One of the largest factors is that Congress is only providing enough funding to renew the expiring contracts one year at a time. HUD can sign multi-year contracts with owners but these contracts are dependent on Congress providing enough funding every year. So far Congress has provided the funds necessary to renew all expiring Section 8 contracts.

Financial benefits and rent levels

Another factor affecting the owner's decision whether or not to renew is how much rent and other benefits HUD provides the owner in the new contract. There are two new HUD programs that affect how much rent and other benefits the owner receives.

- *Mark up to Market.* In some situations the Section 8 rent is less than what the apartment is worth on the market. In those situations, HUD can offer the owner a new contract with higher rents.
- *Mark to Market.* In some situations the Section 8 rent is more than what the apartment is worth on the market. HUD is reducing the rents paid to owners of these properties. If your building is participating in the Mark to Market program you will receive more information from one of the organizations running the program in this state.

What happens to the tenants if the owner does not renew the Section 8 rental assistance contract?

Tenants who live in the building at the time the contract expires will receive tenant-based rental assistance called vouchers. These vouchers will be issued by a housing agency – usually a public housing authority. These vouchers will provide rent assistance to help you pay your rent. A voucher is portable. You can use it in the building where you live now, or in another rental unit anywhere in the country where the owner accepts vouchers.

The owner of your current building cannot refuse to accept vouchers if the building will continue to be used as rental housing. Owners of other rental housing in most areas of the state do not have to accept tenants with rent vouchers. The only places where it is illegal to discriminate against someone because of tenant-based rental assistance are Seattle, unincorporated King County, and Bellevue.

You are only eligible for this type of voucher if you live in the building when the contract expires. If you move out before that time, you will move without any rental assistance.

The owner of the housing agency issuing the vouchers will contact you about doing the paperwork for the vouchers at some point less than four months before the contract expires.

As a tenant in an apartment where the project-based Section 8 contract expires, you have a right to an “enhanced voucher,” which provides more rental assistance than a regular voucher.

Enhanced vouchers

If you stay in your current building or complex and use your enhanced voucher, you will pay 30% of your monthly adjusted income for rent, as you do now, and the housing agency that issues the voucher will pay the rest as long as the agency finds the rents “reasonable.” If your housing agency will not approve the rents as reasonable, you may have to move elsewhere. The amount of rent you pay will not change unless your income changes or you move elsewhere.

Regular vouchers

If you take your voucher to another building or complex, then it will not be enhanced. This means that there will be a limit on how high a rent the housing agency will cover. This limit is called the “payment standard.” The housing agency for the area where you live sets the payment standard, which varies from area to area. The name of the housing agency in your area is on the last page of this packet of information.

With a regular, non-enhanced voucher, you pay 30% of your monthly adjusted income as a base rent.

If the rent for your apartment is greater than the payment standard, then you must also pay the difference between the payment standard and the actual rent you're paying for your apartment. This can mean that you pay more than

30% of your adjusted monthly income for your housing. If you move, the housing agency cannot approve a lease that would require you to pay more than 40% of your monthly adjusted income for your housing (rent and a standard utility allowance).

What are my rights as a tenant of federally assisted housing?

The Washington State Residential Landlord Tenant Act and RCW 59.28 describes your rights. You also may have rights under RHS and HUD regulations. Some of your rights are described here.

The owner of your building is required by RCW 59.28 to notify you one year prior to prepaying the RHS loan or allowing the rental assistance contract to expire. In the notice the owner must notify you of whether or not the owner actually intends to prepay the RHS loan or is seeking additional financial incentives from the federal government.

You Have a Right to Comment on a Request to Prepay and RHS Loan and to Organize.

RHS is required to ask you and all of the other tenants for your comments when the owner submits a request to prepay the RHS loan. Your comments are important. It is very important that RHS understands whether your housing is needed and what will happen to you and the other current tenants if the RHS loan is prepaid.

In preparing your comments, you have the right to review all information on file with the agency, including any provided by the landlord. You also have the right to appeal a decision by the agency approving the request to prepay. There is a deadline for appealing this decision. You must take immediate steps to protect your rights if the federal agency approves a prepayment. You can consult an attorney about a prepayment by contacting the Northwest Justice Project at the toll-free number listed below.

You also have the right to organize with your neighbors to protect your housing.

Having the right to organize means that:

- You have the right to have tenant meetings.
- You have the right to post flyers and meeting announcements.

- You have the right to hold meetings in a common area of the building or complex without the presence of management or owner representatives.
- You have the right to voice your concerns about the future of your housing.

You may be able to get assistance organizing from the organizations on the list of resources at the end of this notice.

Where can I get more information?

The letter you received from the owner has more information about what is happening to your specific building.

Your landlord is also required to send more information about the building to the local city or county clerk, the local housing agency and the Washington State Office of Community Development. The owner must also post copies of this information on the property.

Organizations that can assist you and answer questions:

WA Low Income Housing Network

1000 8th Avenue, Suite 105
Seattle, WA 98121
(206) 442-9455

The Tenants Union

3902 S. Ferdinand St.
Seattle, WA 98118
(206) 722-6848 or 1-800-556-9926

Northwest Justice Project – C.L.E.A.R. Program

Statewide client intake line 1-800-201-1014

USDA rural Housing Service

1835 Black Lake Boulevard Suite B
Olympia, WA 98507
(360) 704-7742

email: mmcbride@urdev.usda.gov

U.S. Department of Housing and Urban Development (HUD)

Seattle Office
909 1st Avenue, Suite 200
Seattle, WA 98104
(206) 220-5104

Spokane Office
920 W. Riverside, Suite 588
Spokane, WA 99201-1010
(509) 353-0764

WA Office of Community Development

906 Columbia Street SW
Olympia, WA 98504-8300
(360) 586-3419

Local Housing Agency

Name: _____

Address: _____

Phone: _____

Community Action Agency/Program

Name: _____

Address: _____

Phone: _____

Area Agency on Aging

Name: _____

Address: _____

Phone: _____